

ANALYSIS OF ORIGINAL BILLAuthor: Benoit Analyst: Kristina E. North Bill Number: AB 2646Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 20, 2004Attorney: Patrick Kusiak Sponsor: _____**SUBJECT:** Providing Information To Law Enforcement Agencies For Tracking Registered Sex Offenders Credit**SUMMARY**

This bill would reimburse any taxpayer, including consumer reporting agencies and financial institutions, for the costs incurred to provide law enforcement agencies with information used to track registered sex offenders.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to keep better track of registered sex offenders by offering a tax incentive for providing information to law enforcement agencies to track registered sex offenders.

EFFECTIVE/OPERATIVE DATE

This bill would be effective immediately and apply to taxable years beginning on or after January 1, 2004.

POSITION

Pending.

Summary of Suggested Amendments

Department staff is available to assist with amendments to resolve the implementation and policy concerns discussed in this analysis.

ANALYSISFEDERAL/STATE LAW

Under current federal law, the Fair Credit Reporting Act, a consumer reporting agency may provide information regarding a consumer to a law enforcement agency in response to:

- ◆ A court order or a Federal grand jury subpoena,
- ◆ Written instructions from the consumer to whom the consumer report relates,
- ◆ A request from a state child support enforcement agency for specific purposes, and
- ◆ The administration for a state plan to use or set an initial or modified child support award.

Board Position:

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Department Director

Date

Gerald H. Goldberg

4/22/04

Current state and federal tax laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

No federal or state credit exists for reporting information to law enforcement for the purpose of tracking registered sex offenders.

THIS BILL

This bill would allow a 100% credit to taxpayers that provide information to law enforcement agencies to track registered sex offenders. The credit would be equal to the amount paid or incurred during the taxable year to provide that information.

This bill would allow any unused credit to be carried over until exhausted.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

- ◆ This bill uses terms that are undefined, namely "providing information," "law enforcement agencies," "tracking," and "registered sex offenders." Without definitions for these terms it would be difficult for the department to administer this bill.
- ◆ Additionally, although the author's stated target-taxpayers are consumer reporting agencies and financial institutions, the bill would allow *any* individual taxpayer potentially to receive the credit. The author may wish to limit the taxpayers qualified expressly to receive the credit to consumer reporting agencies.
- ◆ It is unclear how a taxpayer would know when to claim a credit or, if a credit is claimed, how it could be verified. For example, according to department staff, when a court order requests consumer information from a consumer reporting agency or a financial institution, it does not generally specify that the individual about whom it is requesting information is a registered sex offender or that the information received would be used to track a registered sex offender.
- ◆ This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit/deduction allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

The department's costs to administer this bill cannot be determined until implementation concerns have been resolved but are anticipated to be minor.

ECONOMIC IMPACT

Revenue Estimate

The California Department of Justice identified 62,000 registered sex offenders at-large in communities in 2004. It is assumed that each offender has at least one person providing information at least once during a taxable year to track the offender, and that the person providing the information would claim a credit for providing that information to law enforcement. It is assumed that a taxpayer would claim an average of \$5 for items such as postage, photographs, travel/transportation, and research time for providing information to law enforcement. The revenue impact would be on the order of magnitude of approximately \$310,000 (62,000 x \$5 equals \$310,000) annually, with an annual growth of registered sex offenders in California at approximately 1% per year.

Revenue Impact PIT and Corporate Tax			
Fiscal Year	2004/2005	2005/2006	2006/2007
Revenue Loss*	-\$310,000	-\$310,000	-\$310,000

*A minor loss is less than \$500,000.

This bill does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

This analysis only reflects information provided to California law enforcement agencies pertaining to California registered sex offenders. The revenue loss would increase significantly if the intent is to extend the credit to information provided to any law enforcement agencies in the nation, or in foreign countries for all registered sex offenders.

POLICY CONCERNS

Conflicting tax policies come into play whenever a credit is provided for an item that may be deductible as a business expense. Providing both a credit and a deduction would have the effect of providing a double benefit. On the other hand, making an adjustment to deny the deduction in order to eliminate the double benefit creates a difference between state and federal taxable income, which is contrary to the state's general federal conformity policy.

This bill does not limit the total amount of credit a taxpayer may claim for providing information. For example, a taxpayer may provide information on one registered sex offender or on several different registered sex offenders numerous times during a taxable year. This bill would allow a 100% credit for each piece of information on each registered sex offender provided by a taxpayer during a given taxable year.

This bill does not limit the credit for expenses paid or incurred in providing information pertaining to California law enforcement regarding a California sex offender. Thus, this bill would allow California revenue to be used for providing information to non-California law enforcement and non-California registered sex offenders.

Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

This bill does not contain a sunset date. Sunset dates generally are provided to allow periodic review by the Legislature.

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